REMARKS

In the Office Action mailed November 26, 2008, the Examiner rejects claims 1 - 7 and 9 - 14 under 35 U.S.C § 103(a) as being unpatentable over US Patent Publication Number 2003/0105677 to Skinner, et al. ('Skinner") in view of US Patent Publication Number 2001/0051911 to Marks, et al. ("Marks") and further in view of the publication entitled "Ideas Futures: Encouraging and Honest Consensus" by Hanson ("Hanson").

Claims 1 - 7 and 9 - 14 are currently pending in the present application, with claims 1 and 13 being independent claims. By way of the present Response, Applicants hereby amend claims 1 and 13 to recite that "a granularity of the set of search terms relating to a common theme of the concept is defined." No new matter has been added and the amendments are supported by the specification as originally filed. For at least the reasons set forth below, Applicants respectfully submit that all pending claims are allowable and respectfully request withdrawal of the rejection of claims 1 - 7 and 9 - 14.

Claims 1 - 14 are rejected under 35 U.S.C § 103 as being unpatentable over Skinner in view of Marks and in further view of Hanson. Independent claim 1 is directed towards a method for valuing a concept in a computerized system for allowing transactions in instruments, the instruments being capable of being valued based on values of term-based concepts, and terms of the concepts being useable in computerized searches. The method comprises obtaining quantitative data associated with the concept, wherein the concept comprises a set of one or more terms that relate to a common theme, wherein a granularity of the set of search terms relating to the common theme of the concept is defined. The data is electronically operated on to produce a quantitative statistic by using at least one of a total revenue per period calculation, a median revenue per period calculation, an average revenue per

period calculation, an average of median bidded price calculation, and a median of median clicked price calculation, and a median click calculation. A value of the concept is electronically determined based at least in part on the produced statistic such that the value is used in the computerized system allowing transactions in the instruments and the value of one or more instruments is electronically determined based at least in part on the value of the concept.

Independent claim 13 is also directed towards a method for valuing a concept in a computerized system for allowing transactions in instruments, the instruments being capable of being valued based on values of term-based concepts, and terms of the concepts being useable in computerized searches. The method comprises obtaining quantitative data associated with demand for the concept, wherein the concept comprises a set of one or more terms that relate to a common theme, wherein a granularity of the set of search terms relating to the common theme of the concept is defined. The data is electronically operated on to produce a quantitative statistic by using at least one of a total revenue per period calculation, a median revenue per period calculation, an average revenue per period calculation, an average of median bidded price calculation, and a median of median clicked price calculation, and a median click calculation. A value of the concept is electronically determined based at least in part on the produced statistic, comprising taking at least one measure to prevent intentional manipulation of the value of the concept such that the value is used in the computerized system allowing transactions in the instruments. The value of one or more instruments is electronically determined based at least in part on the value of the concept.

Skinner discusses an automated web ranking system that enables advertisers to dynamically adjust pay-per-click bids to control advertising costs by tracking <u>individual search terms</u> that are used to market an advertiser's product or services in online marketing media

("OMM"), such as search engines, portals, banner advertisements, affiliate programs. (Skinner, Abstract and ¶ 12).

Marks discusses a system for prioritizing the presentation of one listing relative to another listing by comparing an amount bid on a descriptive handle that is attached to each listing and the value of the descriptive handle determines the level of priority accorded to the listing. (Marks, ¶ [0009]). A descriptive handle, as discussed in Marks, comprises one or more key words or other descriptive attributes collectively known as target points and a bid amount, where the target points are organized in a manner of a pyramid with specific target points at the bottom of the pyramid feed into more general target points toward the top. (Marks, ¶ [0010], lines 1-7).

Hanson discusses a new social institution referred to as "idea futures" that combines two phenomena, convergence and market, in order to make a futures market in ideas where coupons having a conditional value are exchanged. (Hanson, pg. 2, ¶¶ 3-4, pg. 6, ¶ 5).

The combination of Skinner, Marks and Hanson fails to disclose all of the claimed elements of independent claims 1 and 13, as currently amended. Specifically, Skinner fails to teach or suggest, "obtaining quantitative data associated with the concept, wherein the concept comprises a set of one or more terms that relate to a common theme, wherein a granularity of the set of search terms relating to the common theme of the concept is defined." In support of the rejection of the method step of "obtaining quantitative data associated with the concept, wherein the concept comprises a set of one or more terms that relate to a common theme" recited in independent claims 1 and 13, the Examiner points to Skinner as teaching obtaining quantitative data associated with "search terms" that can consist of a word or a group of words that contains a set of characters, character strings, letters or words. The Examiner, in the Response to

Arguments section, concludes that Skinner teaches a concept, which the Examiner equates to a search term, that comprises a set of terms, which the Examiner asserts are characters, strings letters or words that relate to a common theme. The Examiner asserts that a common theme would include a group of letters arranged to create a word or a group of words arranged to create a concept.

Applicants respectfully assert that the Examiner has misconstrued the term "concept" as currently claimed, specifically, by the assertion that a group of letters arranged to create a word or a group of words arranged to create a concept teaches the notion of relating to "a common theme." A common theme is synonymous with common subject matter, such as for example, the terms "Pocket PC" and "Windows CE" referring to the same subject matter or theme of handheld computers. The Examiner's assertion that a group of letters arranged to create a word would constitute a set of words related to a common theme is simply not in line with the commonly understood meaning of a "common theme," namely relating to the same subject matter. In addition, the Examiner's assertion that a group of words arranged to create a concept teaches or suggests a common theme is simply a circular argument, which finds no support in the relied upon art and intends to use the term "concept" in defining a "common theme," when in fact, the present claim uses a "common theme" to define a "concept."

Applicants additionally reiterate their previous assertion that Skinner teaches a system that allows an advertiser to calculate a bid for a single search term to secure a certain positioning and to then adjust the bid based on a competitor's activity. (*See*, Skinner, ¶¶ 12, 37 and 38) and that using such a system for a single search term is not the equivalent of using such a system for a concept that comprises multiple search terms that relate to a common theme. The Examiner points to the Applicants' disclosure as asserting that a "term" can include "one or more

characters, character strings, letters, words, phrases, abbreviations, sentences, or symbols of any kind" and that Skinner teaches a "search term" which consists of a word or group of words and therefore Skinner teaches a concept or "a search term" that comprises a set of terms or "words" relating to a common theme. The Examiner again, however, misconstrues the term "concept" as being the equivalent of a "search term" that comprises a set of words. A "concept," as presently claimed, comprises a <u>set of</u> search terms that relate to a common theme and is not itself a single search term.

Despite the misconstruction of the clear claim language recited in independent claims 1 and 13, the Examiner supplies an additional reference, Marks, stating that the Examiner anticipates that Applicants would overcome the rejection based upon Skinner. Marks discusses a system for prioritizing the presentation of one listing relative to another listing by comparing and amount bid on a descriptive handle that is attached to. (Marks, ¶ [0009]).

Specifically, the Examiner points to Figures 2A and 2B of Marks as disclosing search terms relating to a common theme. Figures 2A and 2B disclosed in Marks illustrates the organization of target points in the manner of a pyramid, where specific target points at the bottom of the pyramid feed into the more general target points toward the top. (Marks, ¶ [0010]). A target point, as discussed in Marks, is one or more keywords or other descriptive attributes, that along with a bid amount, comprise a descriptive handle that entities may place bids upon. However, a grouping of target points in a pyramid structure fails to teach or suggest the presently amended claim element "obtaining quantitative data associated with the concept, wherein the concept comprises a set of search terms relating to a common theme<u>, wherein a granularity of the set of search terms relating to the common theme of the concept is defined.</u>" At best, Marks simply discloses a grouping of target points in pyramid structure by looking to

the bid amount of each target point, but fails to teach or suggest defining the specificity or granularity of the set of terms relating to the common theme of the concept. At best, Marks discusses prioritizing terms within a grouping, but fails to disclose how the terms within the grouping are defined or selected, and more specifically, to what degree the relationship among the terms within the grouping are defined.

Applicants have conducted a thorough review of the combination of Skinner, Marks and Hanson and respectfully assert that Skinner, Marks and Hanson, considered alone or in combination with the prior art of record, does not teach or suggest at least "obtaining quantitative data associated with the concept, wherein the concept comprises a set of one or more terms that relate to a common theme, wherein a granularity of the set of search terms relating to the common theme of the concept s defined." Accordingly, Applicants respectfully request withdrawal of the rejection of independent claims 1 and 13 and allowance of the same.

The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over Skinner, Marks and Hanson and the prior art of record. Given the Applicants' position on the patentability of the independent claims, however, it is not deemed necessary at this point to delineate such distinctions.

For at least all of the above reasons, Applicants respectfully request that the

Examiner withdraw all rejections, and allowance of all the pending claims is respectfully

solicited. To expedite prosecution of this application to allowance, the Examiner is invited to

call the Applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

Dated: February 25, 2009

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Timothy J. Bechen
Reg. No. 48,126
Ostrow Kaufman & Frankl, LLP
405 Lexington Ave, 62nd Floor
New York, NY 10174

Customer No. 61834

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